

REMARKS/ARGUMENTS

The Applicant acknowledges, with thanks, the office action dated April 17, 2008. The allowability of Claims 32-33 if rewritten in independent form including all of the limitations of the base claim and any intervening claims is noted with appreciation. Accordingly, claim 32 is canceled without prejudice or disclaimer and new claim 34 is the equivalent of claim 32 rewritten in independent form and containing all of the limitation of the base claim and any intervening claims and should thus be allowable for the same reason as claim 32. Claim 33 has been amended to depend from new claim 34. Therefore claims 33 and 34 should be in condition for allowance.

By this amendment, claims 1, 3, 5, 6, 10, 14, 15, and 33 have been amended. No new matter has been added. Claims 8-9, 13, 16 and 23-32 have been cancelled without prejudice or disclaimer. Reconsideration of this application as amended is requested.

Non-Art Matters

Claims 1-33 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically the examiner rejected the limitations “primary communications signal” and/or “secondary communications signals” in claims 1, 8, 10, 15, 23, 31 and 32. In addition, claim 28 was rejected for the limitation “Ethernet primary communication signals” lacking antecedent basis. Withdrawal of this rejection is requested for reasons that will now be set forth.

Claims 1, 10 and 15 have been amended to overcome this rejection, specifically “primary communications signal” has been replaced with -- Ethernet primary communication signal -- and “secondary communications signal” has been replaced with – Ethernet secondary communication signal --. Claims 8, 23, 28 31, and 32 have been canceled without prejudice or disclaimer.

Prior Art Matters

Claims 1-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2004/0164619 to Parker et al. (*hereinafter*, “Parker”) in view of U.S.

Patent Publication No. 2003/0068033 to Kiko (*hereinafter*, “Kiko”). Withdrawal of this rejection is requested for reasons that will now be set forth.

Independent claims 1 and 10 as currently amended recite a method and apparatus respectively that provides power injection and out of band communications to a network device. Ethernet primary communications are received on a first input, a data signal on a second input and power on a third input. The Ethernet primary communications are provided to the network device on a first medium (e.g. on a ‘used’ pair of conductors). The power signal and data signal are provided to the network device on a second medium (e.g. on an ‘unused’ pair of conductors). Claim 1 further recites sending a discovery signal on the second medium and the power signal is provided on the second medium upon receipt of a discovery response.

By contrast, in Parker only the power signal is provided to the network device. Parker makes no mention of providing a data signal to the network device. According to Parker, SERIAL_COM 307 is a serial interface for the PoE chip to communicate with the microcontroller or host controller on the circuit board (Parker, paragraph 45). SERIAL_COM 307 receives control information for managing power transmissions by PoE functional blocks 320₁-320_N and transmits the status of the controlled ports to the controller on the circuit board (Parker, paragraph 45). The status information is not transferred on medium (first or second) to the network device. Therefore, for the reasons set forth above, Parker does not disclose every element of independent claims 1 and 10.

The aforementioned deficiencies in Parker are not remedied by Kiko. Kiko does not teach or suggest providing Primary Ethernet communications on a first medium (e.g. “used” pairs of conductors) while providing data and power on a second medium (e.g. the “unused” pairs). Therefore, neither Parker nor Kiko, alone or in combination, teach or suggest all of the elements of independent claims 1 and 10.

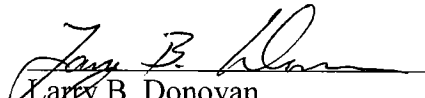
Claims 2-7 directly depend from claim 1 and thus contain each and every element of claim 1 and consequently are not obvious in view of Parker and/or Kiko for the reasons already set forth for claim 1. Claims 11, 15, 17, and 18 directly depend from claim 10 and thus contain each and every element of claim 10 and consequently are not obvious in view of Parker and/or Kiko for the reasons already set forth for claim 10.

Conclusion

Withdrawal of the rejections to this application is requested for the reasons set forth herein and a Notice of Allowance is earnestly solicited. If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 72255/33235.

Respectfully submitted,

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